



STATE OF VERMONT
DEPARTMENT OF EDUCATION
120 State Street
Montpelier, VT 05620-2501

MEMORANDUM

TO: Vermont State Board of Education
FROM: Andy Snyder, Intergovernmental Affairs
RE: **2005 Legislative Summary**
DATE: September 14, 2005

The following is a brief review of legislation enacted by the General Assembly in the first year of the 2005-2006 biennium. Any legislation introduced thus far may be acted upon until the end of the 2006 session.

If you need further information regarding any education-related legislation, contact me at 828-1086 or andysnyder@education.state.vt.us. For complete act and bill listings, visit the Vermont Legislative Web site at www.leg.state.vt.us.

[Act No. 4 \(H. 135\) An Act Relating to the Extension of the Council on Education Governance and the No Child Left Behind Oversight Committee](#)

This Act extends the work of these two committees until July 1, 2009.

[Act No. 6 \(H. 143\) An Act Relating to Fiscal Year 2005 Budget Adjustments](#)

Sections 52-59 address corrections to the provisions of Act No. 122 of 2004 (the 2004 State Budget Act) relating to funds directed toward education.

[Act No. 13 \(S. 84\) An Act Relating to Comprehensive Management of Exposure to Mercury](#)

This Act adds a section of law (10 VSA §7109) that bans, after July 1, 2006, the use or purchase for use of elemental mercury, chemicals containing mercury, mercury-added compounds or mercury-added measuring devices in primary or secondary nonvocational education programs. Also, no person may bring elemental mercury onto school premises or buildings or child care facilities. Other mercury-added products are exempt from this ban.

Act No. 25 (H. 299) An Act Relating to an Agency Fee for Teachers and Administrators

An agency fee is a fee charged by a union to individuals who do not belong to the union but are members of the union bargaining unit. The purpose of an agency fee is to compensate the union for services it is required to provide to all members of the bargaining unit, whether they pay union dues or not.

This Act permits teachers and administrators (other than the superintendent and assistant superintendent) to negotiate for an agency fee.

Act No. 29 (S. 81) An Act Relating to School Buses

Act No. 29 accomplishes several things. First, it attempts to reorganize a set of statutes that were badly in need of reorganization, namely, the school bus definitions. Second, it clarifies the requirements with respect to motor coaches and multifunction school activity buses. These two modes of transportation are not considered school buses but some requirements are imposed when they are transporting schoolchildren. However, these new requirements are not major and caused no particular problems when reviewed by superintendents and school boards. There is also a transition provision for smaller vehicles to enable them to phase out in order to comport with recently imposed federal standards.

Subsequent focus on this Act has surfaced concerns about school bus requirements for vans and taxis. Officials from the departments of Motor Vehicles and Education are discussing how these concerns should be addressed.

Act No. 32 (H. 201) An Act Relating to a Vacancy on a School Board

As of July 1, 2005, vacancies on school boards will be filled by the affected school boards, rather than boards of selectmen until elections are held to fill the vacancies.

Act No. 38 (H. 504) An Act Relating to Appraisals and Education Finance

This Act includes the provision that repeals the special education “targets” that were enacted as part of Act 117 in 1999. Targets were enacted to limit the state’s growth in special education costs. It is believed that the excess spending penalties of Act 68 will address concerns that the targets were designed to address.

Act No. 38 also increases the income sensitivity eligibility thresholds to \$85,000 in 2006 and \$90,000 beginning in 2007.

Section 10 of Act No. 38 amends 16 VSA § 4028 (c) to allow any district which has adopted a school budget that includes excess spending to use a portion of its excess spending penalty in obtaining an education operations consultant.

Act No. 43 (H. 518) An Act Relating to Capital Construction and State Bonding

Section 6 of the Capital Bill addresses education expenditures. General school construction was funded at a level of up to \$13.563 million with appropriations tied to allocations in both the capital and appropriations bill.

Technical Education center program equipment is funded at a level of \$100,000 with a subsequent allocation of \$400,000 made available from expected revenues of state-owned land in Brandon.

Act No. 43 provides direct appropriations to the following projects:

- Brattleboro Union High School District – \$800,000 for a partial payment of the 100 percent state share of approved costs of the Windham Regional Career Center.

- Danville School District – \$16,044 for 25 percent state share of costs incurred for a 2004 project.
- Middlebury Union High School District – \$71,300 for 25 percent state share of costs incurred in 2004 for health and safety improvements to the gymnasium.
- Orleans Central Supervisory Union – \$27,390 for 30 percent construction aid for additional costs to the Barton Early Education Center.
- \$200,000 to the Department of Buildings and General Services for the North Country Career Center to finalize the documents necessary for preliminary state review and a public bond vote.

The Capital Bill also directs the State Board of Education to review and evaluate the prioritization process by which it assigns points to school construction projects. Additionally, it is to consider ways in which it might integrate technical Education centers, including the three proposed projects grandfathered at 100 percent state aid for construction, into the prioritization system or ways in which it might otherwise ensure a reasonably predictable payment schedule for such centers. The State Board is to report to the General Assembly by January 15, 2006.

Act No. 50 (H. 117) An Act Relating to the Allocation of the Assets of the State Teachers' Retirement System of Vermont, the Vermont State Employees' Retirement System, and the Vermont Municipal Employees' Retirement System

This Act unites the investment functions of the three retirement boards. It creates an investment committee composed of members of all three boards. The legislation contains a requirement that a report prepared by an independent party, submitted to the Legislature by January 15, 2008, will evaluate the effectiveness of the unitized Pension Investment Committee.

Act No. 54 An Act Relating to Updating and Clarifying Education Law

§ 2 amending 16 V.S.A. § 426(a) Treasurer's Transfer of School District Funds – The town/school district treasurer is required to transfer funds received into the school district account within 20 days of school taxes becoming due and payable. Because under Act 68 the treasurer will not know how much to transfer until the Commissioner has notified the district of the correct amount, the requirement has been altered slightly to enable the treasurer to have 20 days from the date of the Commissioner's notification where such notification has not been received within the existing statutory 20-day period. We expect the notification to be made by mid-September as soon as grand list information is available.

§ 4 amending 16 V.S.A. § 562(8) Electorate's Budget Authority – There has been some confusion around what the voters of a school district vote upon in the annual school district budget vote. This section clarifies that the amount proposed to be spent regardless of the source of funds is what the voters are approving and not the amount needed to be raised in addition to funds from other sources such as federal aid, grants, etc., as some have believed.

§ 5 amending 16 V.S.A. § 563(17) Student Census Information – This section removes the requirement for a district to include an audit of the average daily membership (ADM) count as part of its audit of financial statements. A district's ADM is now calculated by the Department of Education based on the district's submission of student census data.

§ 6 amending 16 V.S.A. § 706m Union School Districts; Elimination of Office of Auditor – Under prior law, most school districts could, by vote of the district, eliminate the office of auditor as long as they conducted an annual audit by a public accountant. This provision gives union school districts the same authority.

§ 7 amending 16 V.S.A. § 823 Elementary Tuition – Three separate problems are addressed in this section. First, the current statutory language contemplates a school district that does not maintain an elementary school paying elementary tuition to another public school at a rate not greater than the calculated net cost per pupil. This amount is not even calculated for more than a year after the payment is to be made. Therefore, this section of the bill, by amending 16 V.S.A. §823(a), makes the elementary tuition consistent with the way it is done at the secondary level. The sending school pays the receiving public school the full amount charged and if there is any significant deviation in that charge from the allowable net cost per pupil when it is subsequently calculated, it will be addressed in the already existing statutory tuition reconciliation process.

The second change involves the reconciliation process itself. The statutes are clear in §836 that it applies to both elementary and secondary schools but it is only explained in any detail in the secondary tuition statutes, 16 V.S.A. §824(b). This amendment makes the elementary and secondary statutes consistent.

Third, at the elementary level, the amount of tuition paid to an independent school prior to Act 54 was the lesser of: (1) the average announced union elementary school tuition or (2) the amount charged by the public elementary school attended by the largest number of the sending district's elementary students. There has been some question raised about the meaning of the word "charged" in that sentence. It is not defined and it is not clear whether it refers to the charge at the beginning of the year or the final charge after the tuition reconciliation process is complete. To make things clearer and easier for the schools to administer, the tuition amount is pegged to the amount charged by the independent school itself.

§ 10 amending 16 V.S.A. § 836(a) Process for Reconciling Tuition Charges with Calculated Net Cost Per Pupil – This provision addresses the process for reconciling tuition charges with the allowable tuition calculation performed at the end of the school year. Tuition charges in excess of three percent above or below the calculated net cost per pupil are to be refunded or credited. Problems have arisen because it is not clear whether the receiving school district is required to send a bill or other accounting to the sending school districts. In one instance, notice of monies owed was not communicated by the receiving district to the sending districts for over a year. This amendment would require a notice to be provided by a receiving district to the sending districts by December 15 of each year.

§ 11 amending 16 V.S.A. § 1552(c) Calculating Technical Education Tuitions – Because of changes in Act 68, technical center tuition is no longer reduced by a block grant payment. This amendment reflects that change by eliminating the block grant reduction provision of 16 V.S.A. §1552(c). The tuition charges are still reduced by a state tuition reduction grant of 35 percent of the base education payment.

§ 13 amending 16 V.S.A. § 1593 Awarding of Post-secondary Credits Toward High School Graduation – Under the technical education statutes, students may be enrolled in post-secondary programs and receive credit toward graduation if such credit is approved by the school board from which the student will graduate after that board hears from the technical center's Regional Advisory Board (RAB). Because the law has changed with respect to Regional Advisory Boards (a RAB may be replaced when a new technical center school district is formed or when the RAB has delegated its work to the regional workforce investment board), it is necessary to add language recognizing that the advice of these possible alternative organizations regarding postsecondary credit may be substituted for the RAB's advice.

§ 14 amending 16 V.S.A. § 2904 Reporting on Educational Support Systems; Particular Expenditures – Superintendents are required to report annually on the status of educational support systems within their supervisory jurisdiction. The current statutes also require a report on expenditures under 16 V.S.A. §4011(d) for certain services attributable to increases in student

count due to the poverty ratio or the number of students with limited English proficiency. That particular statute, § 4011(d), was repealed last year but its connection to this reporting provision was overlooked. This amendment repeals the requirement to report on expenditures for limited English proficiency and poverty students. The Educational support system status report is still required.

§ 15 amending 16 V.S.A. § 2957(e) Special Education Unilateral Placements – This provision establishes a precondition for parents to seek reimbursement for unilateral special education placements. The precondition is that school districts first must be able to evaluate the student and develop an individualized plan. The federal government required Vermont to change this section last year to include an exception contained in federal law. That change was made in last year's technical corrections bill but now the federal government has asked that an additional exception – namely that a court could order otherwise with respect to such reimbursements – be added. This proposal satisfies this new federal request.

§ 18 Tuition Overcharge Study; Commissioner of Education – This provision directs the Commissioner to study the relationship between tuitions announced by districts and allowable tuitions the department calculates for districts. A report will be submitted to the House and Senate Education committees by January 15, 2006. The report will include recommendations to insure that announced tuitions will more accurately reflect allowable tuitions. The Commissioner is specifically directed to consider a cap on the amount a receiving district would be able to charge sending districts in the event of an undercharge.

§ 19 Transition to Full Implementation of Act 130; Funding of Union and Unified Union School Districts – Act 130, the law designed to align union school district funding with Act 68, was signed into law May 24, 2004. However, most of its provisions do not take effect until July 1, 2006. The law contained a provision (the Dry Run) requiring the department to run the new union school district funding model using FY 06 district budget data to uncover possible problems. We completed this review in the spring and shared results with school districts and the Legislature. As a result, this year the Legislature enacted a transitional provision delaying some of the components until FY 08.

§ 20 Lake Champlain Regional Technical Center School District; Transfer of Funds – Act No. 54 addresses the planning activities of the Lake Champlain Regional Technical Center by re-allocating to the Department of Buildings and General Services (BGS) funds previously earmarked to the Lake Champlain Chamber of Commerce, the Chittenden Workforce Investment Board or the Lake Champlain Regional Technical Center School District. BGS will disperse \$10,000 to the Chittenden South Supervisory Union to serve as the fiscal agent for a newly established steering committee that will develop a vision for providing technical education in the Chittenden County service region.

On or before November 30, 2005, the steering committee shall provide specific recommendations for implementing its vision. The Education Commissioner is required to monitor the steering committee's work and approve all expenditures.

Act No. 71 An Act Making Appropriations for the Support of Government

In the 2005 Appropriation Bill, the following sections indicate sums appropriated or provisions enacted:

§100 (g) \$30,000 granted to Prevent Child Abuse Vermont for a comprehensive health education and violence prevention curriculum for seventh- and eighth-grade students.

§100 (l) (1) The Agency of Human Services Secretary shall consult with all agency of human services commissioners and the Commissioner of Education to coordinate master contracts.

§ 100 (l) (2) Transfer of funds across programs for the Lund Family Center

§ 118 (b) The Department for Children and Families with the Department of Education shall track and report quarterly expenses and receipts for the Family Infant Toddler Program.

§ 141 (a) A finding that the state of Vermont funding level for special education services in the Department of Corrections meets special education requirements and contains criteria for future increases in special education funding.

Sections 152 thru 171 reflect funding to education. In addition to funding the Department of Education and its various grants and programs, these sections include, among other provisions:

Sections 160 and 161 High School Completion; Adult Education and Literacy – These sections create a high school completion advisory committee, direct the mechanism and procedure by which the committee shall operate and appropriate funds for adult education and literacy.

§162b Early Childhood Education Services includes the provision that recognizes in statute the ability to include early education students in a district's average daily membership count and encourages collaboration with the private sector.

§ 168a Council on Education Governance; Appropriation appropriates \$75,000 from the Education Fund to the Commissioner of Education for the purpose of enabling the Department of Education to continue working with the Council on Education Governance to award grants to education communities, and to document the processes, successes and lessons to be learned from the work of these communities.

§ 263 Fiscal Year 2005 Designated Balance (Waterfall)

(3) \$250,000 to the Department of Education for adult education one-time transition costs.

(4) \$531,000 to the Department of Education for transfer to the Department of Corrections as needed for special Education program expenses. The Department of Corrections, with the Department of Education, shall develop a plan for special education within its Corrections system high school program. The plan shall include spending targets and budgets, a description of how short-term and longer-term youth inmates' needs are to be addressed and the specific measurable outcomes on which the system will be evaluated. The departments shall submit the plan to the House and Senate committees on Appropriations and Education on or before December 15, 2005.

Act No. 79 (H. 163) An Act Relating to Criminal Abuse, Neglect, and Exploitation of Vulnerable Adults

This Act updates the reporting requirements for educators, as well as other professionals, and clarifies and strengthens the penalties for abusing, neglecting or exploiting vulnerable adults. This law is important to Vermont schools because many students with disabilities 18 years or older fall within the definition of a vulnerable adult and that is why educators are mandatory reporters. Among other provisions of Act 79, schools that provide services to vulnerable adults must post in a prominent and accessible location a poster describing the protections afforded to these individuals.

This Act requires an extensive report to the Legislature by January 15, 2006 by the Secretary of the Agency of Human Services.

Act No. R-157 (JRH 25) Joint Resolution Relating to a Civics Education Forum

This resolution accepts the Vermont Bar Association's willingness, in conjunction with other interested organizations, to conduct a survey of civics education best practices and an inventory of related resources available to assist Vermont educators with civics instruction, to

hold a forum in which people engaged in civics education can share their best practices, activities and resources, and to produce a catalogue of civics education resources and activities available in Vermont schools.

Act No. R-235 (JRH 46) Joint Resolution Supporting the Mission of First Day of School America

This resolution expresses the strong support of the General Assembly for the educational mission of First Day of School America and urges communities throughout Vermont to promote this program.